

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

POU920030208US1

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on \_\_\_\_\_

Signature \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Application Number

10/733725

Filed

12/11/2003

First Named Inventor

Chulho Kim

Art Unit

2443

Examiner

David E. England

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

/M. Brad Lawrence/

☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

Signature

M. Brad Lawrence

Typed or printed name

☒ attorney or agent of record.  
Registration number 47210

(860) 286-2929

Telephone number

☐ attorney or agent acting under 37 CFR 1.34.  
Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

April 7, 2011

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.  
Submit multiple forms if more than one signature is required, see below.

☐ \*Total of \_\_\_\_\_ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
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9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Appln. No. 10/733,725  
Docket No. POU920030208US1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Appln. No.: 10/733,725 : Confirmation No.: 8581  
Applicant: Chulho Kim, et al. : Group Art Unit: 2443  
Filed: December 11, 2003 : Examiner: David E. England  
Docket No.: POU920030208US1 :  
For: EFFICIENT PROTOCOL PROCESSING TO INCREASE BANDWIDTH IN  
INTERRUPT MODE

**PRE-APPEAL REVIEW REQUEST**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

In response to the Final Office Action dated January 7, 2011, and in conjunction with the concurrently filed Notice of Appeal, Applicants submit the following remarks for entry in the above-entitled application.

### **REMARKS**

Claims 10 and 12-19 are pending in the instant application.

Claims 10, 12-15 and 17-19 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Connor (U.S. Patent No. 6,868,466) in view of Connor613 (U.S. Patent No. 6,993,613). Claim 16 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Connor in view of Connor316, and further in view of Killian (U.S. Patent No. 6,473,426).

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). The Examiner must meet the burden of establishing that all elements of the invention are taught or suggested in the prior art. MPEP §2143.03.

Independent claims 10 and 19 recite, *inter alia*, exiting the interrupt mode when: there are no more packets in said receive buffer and at least one of: said state variable is equal to a selected value and a selected interval has transpired since said interrupt was generated. To meet this limitation, a prior art reference or combination must teach exiting an interrupt mode when items 1 and 2 below are both satisfied:

- 1) there are no more packets in the receive buffer; **and**
- 2) one of: a) the state variable is equal to a selected value or b) a selected interval has transpired since said interrupt was generated.

Here, the Examiner has, quite simply, failed to show that the combination of Conner and Connor 613 teaches a combination that includes exiting an interrupt mode when both 1) and 2) are satisfied. As such, the Examiner has failed to establish a prima facie case of obviousness.

The Examiner does point out that Connor613 allegedly teaches “exiting the interrupt mode when: there are no more packets in said receive buffer” (Final Office Action at paragraph 10). The Examiner, however, nowhere addresses either requirement a) or b) of item 2 above.

Without showing where in the cited references either a) or b) is taught, the rejection of claims 10 and 19 cannot meet the requirements of MPEP §2143.03. That is, a prima facie case of obviousness has not been established. As such, the rejection of claims 10 and 19, and all claims that depend from them, is improper and must be withdrawn.

In response to the Office Action mailed March 29, 2009, applicants made the above distinction clear (see last paragraph on page 5 that continues to page 6). The Examiner, however, simply stated that those arguments were simply a general allegation that did not point out how the claims patentably distinguished over the references (Final Office Action at paragraph 22). This statement flatly ignored what Applicants have again pointed out herein. More precisely, this statement ignores the fact that Applicants pointed out in their last response that the prior art does not teach or suggest exiting an interrupt mode when both

1) there are no more packets in the receive buffer; **and**

2) one of: a) the state variable is equal to a selected value or b) a selected interval has transpired since said interrupt was generated

are satisfied.

**Conclusion**

In view of the foregoing, it is respectfully requested that the outstanding rejections be withdrawn and that a Notice of Allowance be issued. If the Examiner believes that a telephone conference with the undersigned would be advantageous to the disposition of this case, the Examiner is cordially requested to telephone the undersigned.

In the event the Commissioner of Patents and Trademarks deems additional fees to be due in connection with this application, Assignee's attorney hereby authorizes that such fee be charged to Deposit Account No. 09-0447.

If any extensions of time are required under 37 C.F.R. § 1.136, Assignee hereby petitions for such extensions of time and authorize any extension fees to be charged to Deposit Account No. 09-0447.

Respectfully submitted,  
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Assignee's Attorneys

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